



STAFF REPORT

MEETING DATE: November 9, 2022

PRESENTER: Jesus R. Orozco, Community Development Director

SUBJECT: Authority for Deferral of Impact Fees for Commercial Development and Approval of Agreement with Aloo, LLC for Deferral of Development Impact Fees for Site Plan Review 2021-10, Until Certificate of Occupancy (JRO)

RECOMMENDATION: It is recommended that the City Council adopt two resolutions: (1) Resolution Authorizing Deferral of Impact Fees for Commercial Development; and (2) Resolution Approving an Agreement for Deferral of Development Impact Fees Between the City of Kerman and Aloo, LLC.

EXECUTIVE SUMMARY:

Aloo, LLC (Developer) is currently processing Site Plan Review (SPR) 2021-10 for the development of a Denny's. Developer has requested the deferral of impact fees until the issuance of a Certificate of Occupancy. At this time, the City does not have a Development Impact Fee (DIF) Deferment policy or program for commercial development. Resolution 14-25 addresses the collection of fees per Government Code Section 66007. However, that code section only applies to residential subdivisions. Section 66007 provides in pertinent part that a local agency shall not require the payment of fees on residential development for construction of public improvements or facilities "until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first."

Staff has considered this matter and believes that establishment of a deferment policy for commercial development should be considered. As it will take time to do that, at this time staff is requesting (1) the adoption of a basic resolution authorizing deferrals on a case by case basis or pursuant to a policy adopted by the Council and (2) the adoption of an agreement with Developer for the deferral of impact fees until issuance of a Certificate of Occupancy.

BACKGROUND:

At the onset of supply shortages, the development community has been challenged with beginning and/or completing projects due to the volatile economic market. The City's Economic Development Strategy Plan identifies "*establishing an incentive program*" as a key action to promote economic development in the City. While there is no policy or program in place, Staff does recognize the need to assist developers from time to time and will bring forward an Impact Deferral Program for consideration at a later date.

At this time, Developer has entitlement approval of Site Plan Review (SPR) 2021-10 which allows for the development and operation of a Denny's diner with a drive-through window on a vacant pad west of the Wal-Mart shopping center, at 14235 W. Whitesbridge Road. Currently, the project is pending issuance of a building permit. The current balance due prior to issuance of a building permit is \$93,840.03, as shown on Exhibit 'A' to the proposed Deferral Agreement.

Building permit fees are determined by either the project's square footage or acreage, specifically Development Impact Fees (DIF). As part of new development, the developer is responsible for \$80,132.97 in DIF of the total \$93,840.03 balance. Ms. Sunita Sagar of Aloo LLC., has requested the \$80,132.97 due in DIF be deferred to the end of construction, before issuance of a certificate of occupancy (see Attachment 'B').

While deferral requests are atypical to commercial development in the City of Kerman, this request is similar to previous deferral agreements that have been granted for residential developments by the City Council.

FISCAL IMPACT:

There are no direct fiscal impacts to the City because no portion of fees are being waived or reduced. The developer will be responsible for remitting DIF at such time the project has been completed.

ATTACHMENTS:

- A. Resolution Deferral Agreement for Commercial Developments
- B. Resolution Approving Deferral Agreement w/exhibits